

DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS  
Title 3, California Code of Regulations  
Section 3423(b), Oriental Fruit Fly Interior Quarantine

INITIAL STATEMENT OF REASONS/  
POLICY STATEMENT OVERVIEW

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

These regulations are intended to address the obligation of the Secretary of Food and Agriculture to protect the agricultural industry of California from the movement and spread within California of injurious plant pests.

Specific Purpose and Factual Basis

The specific purpose of Section 3423 is to provide for the State to regulate the movement and possible carriers of Oriental fruit fly from the area under quarantine to prevent the artificial spread of the fly to noninfested areas to protect California's agricultural industry.

The factual basis for the determination by the Department that amendment of Section 3423 is necessary is as follows:

The Secretary may establish, maintain, and enforce those regulations he deems necessary to protect the agricultural industry from pests and to exterminate or prevent the spread of pests. The Secretary has determined, that it is no longer necessary to maintain and enforce these regulations based upon the following:

Existing Section 3423 established an interior quarantine against Oriental fruit fly, provided that portions (approximately 52 square miles) of San Bernardino County (Ontario) are under quarantine for Oriental fruit fly, set forth the hosts, restricts the movement of hosts and possible carriers of Oriental fruit fly from the area under quarantine and provided for special permits to allow movement of articles and commodities otherwise prohibited.

Oriental fruit fly is an insect pest serious pest that attacks the fruit of various plants including apple, avocado, citrus, peach, pear and many kinds of vegetable and ornamental plants. The female punctures host fruit and/or plants to lay eggs that develop into larvae. The punctures admit decay organisms that

may cause tissue breakdown. Larval feeding causes tissue breakdown of fruit and plant host tissue. Fruit with egg punctures or larval feeding are generally unfit for human consumption.

Section 3423(b) was adopted on August 7, 2000. Oriental fruit fly was detected in the Ontario area of San Bernardino County and as a result, the interior quarantine was established on an emergency basis. Since then, male annihilation traps were deployed against the Oriental fruit fly for two life cycles and a subsequent intensive survey for adults was conducted without any additional finds of the fly. Therefore, Oriental fruit fly was declared eradicated from the State on March 27, 2002.

The proposed amendment would remove the Ontario area (approximately 52 square miles) of San Bernardino County from the area under quarantine for Oriental fruit fly. The fly was eradicated from that area on March 27, 2002; therefore, it is no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area. It is necessary to amend this regulation to remove the quarantine on the Ontario area and remove the restrictions on the movement of hosts and possible carriers that are now unnecessary.

Because this fly is repeatedly introduced into California with several infestations requiring quarantine action, the Department proposes to retain the regulation text and insert the word “reserved” in subsection (b). By this action, the regulation may be simply amended to add a new quarantine area description when a new infestation is detected without continuing restrictions for areas from which the fly has been eradicated.

#### Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department of Food and Agriculture has determined that Sections 3423 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3423. No reimbursement is required for Section 3423 under Section 177561 of the Government Code because this amendment removes the portion of San Bernardino County that was in the area under quarantine from the regulation; therefore, enforcement is no longer necessary. There are no mandated costs associated with the removal of this area (Ontario) from the regulation.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Department has determined that the proposed action will not have a significant adverse economic impact on housing costs or California businesses, including the ability of California businesses to compete with businesses in other states. The Department's determination that this action will not have a significant adverse economic impact on businesses was based on the following:

The amendment of Section 3423 (b) will remove any requirements or restrictions on businesses in the Ontario area of San Bernardino County and that should have a positive impact on businesses in that area. The amendment of this regulation will remove the State authority for quarantine activities and any required reporting, record keeping, or compliance by businesses in the area.

#### Assessment

The Department has made an assessment that repealing these regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### Information Relied Upon

The Department is relying upon the following studies, reports, and documents in the amendment of Section 3423(b):

Memorandum of March 27, 2002 to Don Henry, from Gary G. Agosta.